

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

**MARC H. ZIMMERMAN, M.D.**

Holder of License No. 14797  
For the Practice of Allopathic Medicine  
In the State of Arizona

Case No. MD-05-0457A

**CONSENT AGREEMENT FOR  
LETTER OF REPRIMAND**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Marc H. Zimmerman, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

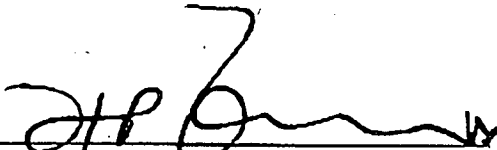
4. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government

1 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
2 any other state or federal court.

3 5. Upon signing this agreement, and returning this document (or a copy thereof)  
4 to the Board's Executive Director, Respondent may not revoke the acceptance of the  
5 Consent Agreement. Respondent may not make any modifications to the document. Any  
6 modifications to this original document are ineffective and void unless mutually approved  
7 by the parties.

8 6. This Consent Agreement, once approved and signed, is a public record that  
9 will be publicly disseminated as a formal action of the Board and will be reported to the  
10 National Practitioner Data Bank and to the Arizona Medical Board's website.

11 7. If any part of the Consent Agreement is later declared void or otherwise  
12 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force  
13 and effect.

14  
15  
16  
17   
18 Marc H. Zimmerman, M.D.

DATED: 4/20/06

**FINDINGS OF FACT**

1  
2       1.     The Board is the duly constituted authority for the regulation and control of  
3 the practice of allopathic medicine in the State of Arizona.

4       2.     Respondent is the holder of license number 14797 for the practice of  
5 allopathic medicine in the State of Arizona.

6       3.     The Board initiated case number MD-05-0457A after receiving a complaint  
7 regarding Respondent's care and treatment of a 61 year-old female patient ("V.M.").

8       4.     On May 22, 2001 V.M. presented to Respondent with complaints of back  
9 pain and left knee pain. Respondent ordered a magnetic resonance imaging (MRI) scan  
10 of the left knee and the results revealed a torn anterior cruciate ligament (ACL), a sprain of  
11 the lateral collateral ligament (LCL), and increased signal intensity of the anterior horn of  
12 the lateral meniscus without definite evidence of a tear. Respondent recommended a left  
13 knee arthroscopy.

14       5.     Respondent's office sought insurance pre-operative authorization for a left  
15 knee arthroscopy and scheduled V.M. for a left knee arthroscopy.

16       6.     On July 25, 2001 Respondent performed a right knee arthroscopy with  
17 chondroplasties of the patella and medial tibial condyle.

18       7.     While V.M. was recovering Respondent was informed that the procedure  
19 was performed on the wrong knee. Respondent immediately informed V.M. and offered to  
20 complete the scheduled surgery. V.M. agreed and also asked that Respondent remove a  
21 cyst from her right wrist at the same time as the correction surgery. V.M. signed both  
22 consents for surgery and both procedures were performed without incident.

23       8.     V.M. continued for several months to follow up with Respondent post  
24 surgically.  
25

1 9. The standard of care required Respondent to perform surgery on the correct  
2 site that was consented to prior to surgery.

3 10. Respondent deviated from the standard of care because he performed  
4 surgery on V.M.'s right knee instead of the consented left knee.

5 11. V.M. was harmed because Respondent performed surgery on the wrong site  
6 resulting in unnecessary surgery on an asymptomatic knee.

7 **CONCLUSIONS OF LAW**

8 1 The Board possesses jurisdiction over the subject matter hereof and over  
9 Respondent.

10 2 The conduct and circumstances described above constitute unprofessional  
11 conduct pursuant to A.R.S. § 32-1401 (27)(q) – (“[a]ny conduct or practice that is or might  
12 be harmful or dangerous to the health of the patient or the public.”)

13 3 The conduct and circumstances described above constitute unprofessional  
14 conduct pursuant to A.R.S. § 32-1401 (27)(ll) – (“[c]onduct that the board determines is  
15 gross negligence, repeated negligence or negligence resulting in harm to or the death of a  
16 patient.”)

17 **ORDER**

18 IT IS HEREBY ORDERED THAT:

19 1. Respondent is issued a Letter of Reprimand for performing a wrong site  
20 surgery.

21 2. This Order is the final disposition of case number MD-05-0457A.

22 DATED AND EFFECTIVE this 9<sup>th</sup> day of June, 2006.

23 (SEAL)



ARIZONA MEDICAL BOARD

24 By

A handwritten signature in black ink, appearing to read "Timothy C. Miller".

25 TIMOTHY C. MILLER, J.D.  
Executive Director

1 ORIGINAL of the foregoing filed this  
2 9<sup>th</sup> day of June, 2006 with:

3 Arizona Medical Board  
4 9545 E. Doubletree Ranch Road  
5 Scottsdale, AZ 85258

6 EXECUTED COPY of the foregoing mailed  
7 this 9<sup>th</sup> day of June, 2006 to:

8 Marc H. Zimmerman, M.D.  
9 Address of Record

10 For M'sm  
11 Investigational Review